

1                                    **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2    In the Matter of the Mortgage Broker License of:

3    **FERNANDO A. PEREZ DBA BEST**  
4    **FUNDING MORTGAGE LOANS**  
5    7310 N. 85th Drive  
6    Glendale, AZ 85305

7                                    Respondent.

                                  No. 10F-BD149-SBD

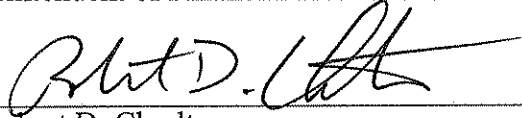
**ORDER OF SUMMARY SUSPENSION  
AND NOTICE OF OPPORTUNITY FOR  
HEARING**

7            The Arizona Department of Financial Institutions (the "Department") hereby finds that  
8    Fernando A. Perez DBA Best Funding Mortgage Loans, ("Respondent") has violated the provisions  
9    of the Arizona Revised Statutes ("A.R.S."), Title 6 as set forth below and finds that the public health,  
10   safety and welfare require emergency action pursuant to A.R.S. §§ 6-905 and 41-1092.11(B).

11           **THEREFORE, IT IS ORDERED** to summarily suspend the Arizona mortgage broker  
12   license held by Respondent. **This suspension is effective immediately.**

13           EFFECTIVE this 12th day of May, 2010.

14                                    Lauren W. Kingry  
15                                    Superintendent of Financial Institutions

16           By  \_\_\_\_\_  
17                                    Robert D. Charlton  
18                                    Assistant Superintendent of Financial Institutions

19           PLEASE TAKE NOTICE that, pursuant to Titles 6 and 41 of the Arizona Revised Statutes  
20   and Title 20, Chapter 4 of the Arizona Administrative Code ("A.A.C."), Respondent is hereby  
21   notified that they are entitled to a hearing to contest the allegations set forth in this Order. The  
22   Request for Hearing shall be filed with the Arizona Department of Financial Institutions (the  
23   "Department") pursuant to A.R.S. § 6-137(D) within **thirty (30) days** of service of this Order and  
24   shall identify with specificity the action or order for which review is sought in accordance with  
25   A.R.S. § 41-1092.03(B).

26           Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or

1 her own behalf or by counsel. If Respondent is represented by counsel, the information required by  
2 A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a Request  
3 for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for hearing in  
4 accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request reasonable**  
5 **accommodations such as interpreters, alternative formats, or assistance with physical**  
6 **accessibility.** Requests for special accommodations must be made as early as possible to allow time  
7 to arrange the accommodations. If accommodations are required, call the Office of Administrative  
8 Hearings at (602) 542-9826.

9 Respondent has the right to request an Informal Settlement Conference, pursuant to A.R.S. §  
10 41-1092.06, by filing a written request no later than **twenty (20) days** before the scheduled hearing.  
11 The conference will be held within **fifteen (15) days** after receipt of your request. If an Informal  
12 Settlement Conference is requested, a person with the authority to act on behalf of the Department  
13 will be present (the "Department Representative"). Please note that in requesting an Informal  
14 Settlement Conference, Respondent waives any right to object to the participation of the Department  
15 Representative in the final administrative decision of this matter, if it is not settled. In addition, any  
16 written or oral statement made by Respondent at such informal settlement conference, including  
17 written documentation created or expressed solely for purposes of settlement negotiations, are  
18 inadmissible in any subsequent administrative hearing. (See A.R.S. § 41-1092.06 for rules regarding  
19 informal settlement conferences.) Conversely, any written or oral statement made by Respondent  
20 outside an Informal Settlement Conference is not barred from being admitted by the Department in  
21 any subsequent hearing.

22 If Respondent does not request a hearing, this Order shall become final. If Respondent  
23 requests a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the  
24 issuance of an order pursuant to A.R.S. § 6-137 directing Respondent to cease and desist from the  
25 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time  
26 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,

1 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-  
2 132; (3) the suspension or revocation of Respondent's license pursuant to A.R.S. § 6-905; (4) an  
3 order to pay restitution of any fees earned on loans made in violation of A.R.S. §§ 6-901, *et seq.*,  
4 pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and (5) an order or any other remedy necessary or  
5 proper for the enforcement of statutes and rules regulating mortgage brokers pursuant to A.R.S. §§  
6 6-123 and 6-131.

### 7 FINDINGS

8 1. Respondent Fernando A. Perez DBA Best Funding Mortgage Loans is a sole  
9 proprietor authorized to transact business in Arizona as a mortgage broker, license number MB  
10 0907998, within the meaning of A.R.S. §§ 6-901, *et seq.* The nature of Fernando A. Perez DBA  
11 Best Funding Mortgage Loans' business is that of making, negotiating, or offering to make or  
12 negotiate loans secured by Arizona real property, within the meaning of A.R.S. § 6-901(11).

13 2. Pursuant to A.R.S. § 6-903(J), Respondent is required to have a surety bond in the  
14 amount set forth in A.R.S. § 6-903(K), or an alternative as set forth in A.R.S. § 6-903(M).

15 3. On November 9, 2009, the Department received notification from RLI Surety stating  
16 that Fernando A. Perez DBA Best Funding Mortgage Loans' surety bond, number PRS1176376 in  
17 the amount of \$10,000.00, was to be cancelled effective January 27, 2010.

18 4. On November 19, 2009, the Department sent an email to Respondent, to the email  
19 address on record with the Department, informing them of the bond cancellation.

20 5. Respondent failed to provide documentation regarding the reinstatement of their bond  
21 or documentation of a new surety bond.

22 6. Respondent does not have the required surety bond in order to conduct business as a  
23 mortgage broker.

24 7. The conduct described above constitutes an immediate threat to the public health,  
25 safety, and welfare warranting immediate suspension of Respondent's mortgage broker license.

26 8. The conduct described above constitutes grounds for the suspension of Respondent's

1 mortgage broker license.

2 LAW

3 1. Pursuant to A.R.S. Title 6, Chapter 9, the Superintendent has the authority and duty to  
4 regulate all persons engaged in the mortgage broker business and with the enforcement of statutes,  
5 rules, and regulations relating to mortgage brokers.

6 2. By the conduct set forth in the Findings, Respondent has failed to maintain the surety  
7 bond required by A.R.S § 6-903(J).

8 3. Pursuant to A.R.S. §§ 6-905 and 41-1092.11(B), the conduct described above  
9 constitutes an immediate threat to the public health, safety and welfare warranting immediate  
10 suspension of Respondent's mortgage broker license.

11 4. Respondent has not conducted business in accordance with the law and have violated  
12 Title 6, Chapter 9, which constitutes grounds for the suspension or revocation of Respondent's  
13 license pursuant to A.R.S. § 6-905(A)(3).

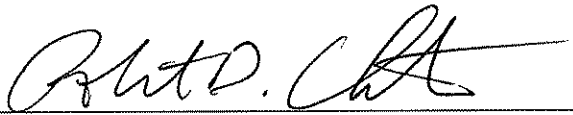
14 5. The violations, set forth above, constitute grounds for the pursuit of any other remedy  
15 necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona  
16 pursuant to A.R.S. §§ 6-123 and 6-131.

17 6. Pursuant to A.R.S. § 6-132, Respondent's violations of the aforementioned statutes  
18 are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation  
19 for each day.

20 WHEREFORE, if Respondent does not request a hearing to contest the above Findings or  
21 produce evidence of a valid surety bond, Respondent's license shall remain suspended unless and  
22 until reinstated or until said license expires by operation of law.

23  
24 DATED this 12th day of May, 2010.

25 Lauren W. Kingry  
26 Superintendent of Financial Institutions

1  
2 By   
3 Robert D. Charlton  
4 Assistant Superintendent of Financial Institutions

5 ORIGINAL of the foregoing filed this 12th  
6 day of May, 2010, in the office of:

7 Lauren W. Kingry  
8 Superintendent of Financial Institutions  
9 Arizona Department of Financial Institutions  
10 ATTN: Susan Longo  
11 2910 N. 44th Street, Suite 310  
12 Phoenix, AZ 85018

13 COPY mailed/delivered same date to:

14 Craig A. Raby  
15 Assistant Attorney General  
16 Attorney General's Office  
17 1275 West Washington  
18 Phoenix, AZ 85007

19 Richard Fergus, Licensing Division Manager  
20 Robert D. Charlton, Assistant Superintendent  
21 Arizona Department of Financial Institutions  
22 2910 N. 44th Street, Suite 310  
23 Phoenix, AZ 85018

24 AND COPY MAILED SAME DATE, by  
25 Certified Mail, Return Receipt Requested to:

26 Fernando A. Perez DBA Best Funding Mortgage Loans  
7310 N. 85th Drive  
Glendale, AZ 85305  
Respondent

By: 